

**REMARKS****I. Introduction**

Claims 1-12 are pending in the present application, and claims 3, 6 and 10 are objected to, and claims 1, 2, 4, 5, 7-9, 11 and 12 are rejected in the current final office action mailed April 20, 2005. The outstanding issues raised in the current office action are:

- Claims 2, 6 and 10 are objected to for undisclosed reasons; and
- Claims 1, 2, 4, 5, 7-9, 11 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent No. 11-54680 issued to Nakazato *et. al* (hereinafer *Nakazato*).

In response, the Applicant respectfully traverses the outstanding claim rejections in view of the following amendments and remarks. Claims 1, 5, and 9 have been amended. Claims 3, 6 and 10 have been canceled. Applicant has added new claims 13-16. Claims 1, 2, 4, 5, 7-9, and 11-16 are pending in this action. Applicant respectfully requests that the Examiner withdraw the objections and rejections, and pass the claims to issue.

**II. Finality of the Office Action**

The Examiner has declared the office action mailed April 20, 2005, to be final. Under present practice, a second or subsequent action on the merits shall be final EXCEPT “where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during . . . .” M.P.E.P. § 706.07(a). The Examiner issued this office action based upon prior art not previously disclosed by either the Applicant or the Examiner. This constitutes a new ground of rejection that was not necessitated by Applicant’s amendment or IDS. Therefore, Applicant respectfully requests that the Examiner withdraw the finality of this action.

### **III. Claims Objected To**

In the cover page to the Office Action, the Examiner indicated objections to claims 3, 6, and 10. However, he failed to address the substance of the objections in the text of the Office Action.

“The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution.” 37 C. F. R. § 1.104(a)(2). As no such reasons have been given for the objections, Applicant respectfully requests the that Examiner withdraw his objections to claims 3, 6, and 10.

Additionally, claims 3, 6, and 10 have been cancelled and; consequently, the objections to them are now moot.

### **IV. Rejection Under 35 U.S.C. § 102**

The examiner has rejected claims 1, 2, 4, 5, 7-9, 11 and 12 under 35 U.S.C. § 102(b) as being anticipated by *Nakazato*.

#### **A. Amended Claims**

Claims 1, 5, and 9 have been amended to include the limitations of original dependent claims 3, 6, and 10 respectively. Thus, no new matter is presented by these amendments.

To anticipate a claim under 35 U.S.C. § 102, a reference must teach every element of the claim. *See* M.P.E.P. § 2131. Claim 1 has been amended requiring each opening to be of decreasing size. Claim 5 has been amended requiring each aperture to be fashioned having decreasing size. Claim 9 has been amended requiring each orifice to be fashioned having a decreasing area. None of the teachings in these amendments are taught or referenced by the *Nakazato* patent. Accordingly, claims 1, 5, and 9 as amended are believed to be patentable over the § 102 rejection of record.

Claims 2, 4, 7, 8, 11, and 12 are each directly or indirectly dependent from amended independent claims 1, 5 and 9, respectively. Thus, they inherit each and every limitation of their respective base claim. Applicant asserts that claims 2, 4, 7, 8, 11, and 12 are now patentable over the § 102 rejection of record. Applicant, therefore, respectfully requests that the Examiner withdraw the § 102 rejections to claims 1, 2, 4, 5, 7-9, 11, and 12.

#### **B. New Claims**

New claims 13-16 have been added containing limitations found in claims 1, 2, 4, 5, 7, 9, and 11, and thus, present no new matter.

#### **V. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, Applicant respectfully requests the Examiner pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 200209688-1 from which the undersigned is authorized to draw.


I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482744030US, in an envelope addressed to: MS RCE, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: June 13, 2005

Typed Name: Susan Bloomfield

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Respectfully submitted,

By 

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